(3)

Single Bench

Ch 108

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION NO. 4655 OF 2004

PETITIONER

Shiv Kumar Yadav, S/o. late Shri Kapurchand Yadav, Aged about 40 years, Occupation–Ex-service man, R/o. Gandhinagar, P.S. & Tahsil Ambikapur, District Surguja (C.G.)

VERSUS

RESPONDENTS

1. The Commercial Tax Commissioner, Commercial Tax Office, Raipur (C.G.)

P.R. No. 4654/04
Presented by Shri A.K. Shukla
dated 29-11-04

2. The Divisional Commissioner, Commercial Tax Department, Office - Bilaspur (C.G.)

3. The Sales Tax Officer, S.T.Office (Surguja Circle) Ambikapur (C.G.)

4. Commercial Tax Officer, (Surguja Circle) Ambikapur (C.G.)

5. The Collector, District Surguja, Ambikapur (C.G.)

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA

DETAILS OF THE PETITION

1. PARTICULARS OF THE PETITIONER

As mentioned in the cause title above.

XI-HC—78

(23)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक W.P. 4655 सन् 2004

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

10.2.2005

Shri A.K.Shukla, Counsel for the petitioner.

Heard on admission.

The petitioner has called in question the legality, validity and propriety of order dated 2.6.2004(Annexure P-11) by which the petitioner has been removed from the services as he was working on the post of Sweeper in the Sales Tax Department, Ambikapur.

On perusal of the record, it transpires that the petitioner remained absent from his duty and for this, a show cause notice was issued to the petitioner by the concerned authority. The petitioner has filed reply to the said show cause notice and thereafter the concerned authority passed the impugned order on 2.6.2004 and removed him from the services. On going through the impugned order, it shows that in fact the petitioner was working as Karyabharit Karmachari.

Learned counsel for the petitioner does not dispute this fact.

It is brought to the notice of this Court that the services of the persons like the petitioner are governed by the Madhya Pradesh(Chhattisgarh) Karyabharit Aaksmikata Seva Karmachari Niyam, 1970.

Learned Counsel for the petitioner submits that the penalties have been described vide Rule 13 and the penalty imposed against the

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश — 2 —	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

petitioner will be covered under clause 7 of Rule 13. Rule 15 deals with the provisions of appeal in which it is provided that the orders passed under Rule 13 except under clauses 1 & 2 of the aforesaid rules, would be appealable under this provision.

In lieu of this, learned counsel for the petitioner submits that this order is an appealable order. However, the appeal has not been filed by the petitioner against the impugned order, the petitioner has directly approached to this Court. At this stage, learned Counsel for the petitioner makes a prayer that this petition be disposed of with a liberty to the petitioner to file an appeal under the rules before appropriate authority.

The prayer of learned counsel for the petitioner seems to be reasonable.

In view of the prevailing facts and circumstances, this petition is disposed of with liberty to the petitioner to file an appeal before the appropriate authority in accordance with the rules.

Certified copy as per rules.

Sd/-
Sunil Kumar Sinha
Judge

sunita

GI-RJ—FS/350—12/2000—50,000.

19.2.05